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N.J. BOARD OF DENTISTRY
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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY

IN THE MATTER OF : Administrative Action
:
PAUL J. MARCUCCI, Jr., D.M.D. : FINAL ORDER OF DISCIPLINE
License No. 22DI01342700 :
:
LICENSED TO PRACTICE DENTISTRY:
IN THE STATE OF NEW JERSEY :

This matter was opened to the New Jersey State Board of Dentistry ("Board") upon receipt of information concerning Paul J. Marcucci, Jr. D.M.D. ("respondent"), that the Board has reviewed and on which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Respondent is a dentist in the State of New Jersey and has been a licensee at all times relevant to this order.

2. On July 23, 2004, the Pennsylvania State Board of Dentistry ("Pennsylvania Board") suspended respondent's license to practice dentistry in the Commonwealth of Pennsylvania for 60 days. Respondent received a public reprimand and was fined \$2,000.00. Additionally, respondent was prohibited from prescribing any controlled substance in connection with his professional practice, for an indefinite time, but no less than three years. The Pennsylvania Board took this action based on their finding, as well as respondent's admission, that he failed to account for 3,880 tablets of APAP with Codeine that were dispensed by the respondent.

3. On September 16, 2005, respondent submitted an application to renew his New Jersey dental license. In response to the question, "Since your last renewal has any action been taken or is any action now pending against your professional license or have

you been permitted to surrender or otherwise relinquish your license to avoid inquiry, investigation or action by any other licensing authority that you have not already reported to your board/committee," respondent checked "no".

4. On January 4, 2006, respondent appeared with counsel, John Campbell, Esq., at an investigative inquiry held by the Board. Respondent discussed the facts underlying the disciplinary action taken by the Pennsylvania Board. Respondent acknowledged that his Pennsylvania dental license was the subject of disciplinary action in 2004. Respondent also admitted that he was not properly recording the pills being dispensed, and that his record keeping was "really poor".

5. During the inquiry before the Board, respondent was asked if he answered "no" on his license renewal application regarding the question concerning disciplinary actions in other states. Respondent indicated he did answer "no". When asked why he answered "no", respondent stated he believed the question was referring to New Jersey disciplinary actions, not other state disciplinary actions.

CONCLUSIONS OF LAW

The above findings of fact provide grounds for disciplinary action in this State, pursuant to N.J.S.A. 45: 1-21(b), as the respondent engaged in misrepresentation, by failing to disclose the Pennsylvania Board's disciplinary action on the renewal application for his New Jersey dental license. Additionally, these facts establish grounds for disciplinary action in this State, pursuant to N.J.S.A. 45:1-21(g), as the State of Pennsylvania has suspended and limited the respondent's license to practice dentistry in Pennsylvania for reasons consistent with the provisions of N.J.S.A. 45:1-21.

DISCUSSION

Based on the foregoing Findings of Fact and Conclusions of Law, a Provisional Order of Discipline (POD) was filed on July 20, 2011. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Respondent, through his attorney, responded to the POD by letter dated August 26, 2011 stating that respondent did not deliberately attempt to hide the disciplinary action taken against him by the Pennsylvania licensing authority. Respondent requested that the POD be modified so as not to impose a public reprimand because of the age of the Pennsylvania matter, the possible detrimental effect such a reprimand could have on his current practice and his participating insurance plans. Respondent also requested a modification to the requirement that he provide monthly copies of prescription pads and medication logs since the original violation in Pennsylvania was a one time event which resulted from respondent's lack of knowledge of the regulations. Respondent noted that there was never any finding of wrongdoing with respect to the narcotic medication involved and the three year limitation on prescribing medication in Pennsylvania has passed with respondent having thereafter resumed the prescribing of narcotic medications without incident.

On November 3, 2011, respondent supplemented his earlier

response in which he re-emphasized that the prescription violations in Pennsylvania occurred over 11 years ago and requested removal of the public reprimand inasmuch as it would prejudice his relationship with his new patients and with insurance providers. Further, respondent did not have a New Jersey practice then and respondent states that such a reprimand would have a detrimental effect on his current New Jersey practice.

With regard to the allegation of his misrepresentation in the renewal application process over 6 years ago, respondent explained that it was a mistake.

The Board was not persuaded that respondent's argument warranted all of the requested modifications of the Order. The Board determined that no material discrepancies had been raised with respect to respondent's having engaged in misrepresentation on the renewal application or having had his license in Pennsylvania suspended for reasons consistent with N.J.S.A. 45:1-21. Additionally, the Board finds that the mitigating factors presented are insubstantial and that good cause exists supporting the public reprimand for the Pennsylvania action only. However, the Board took into consideration that respondent's Pennsylvania license and prescription practices have been fully restored without restriction, and determined to modify the requirements obligating respondent to report and to utilize a triplicate prescription pad.

ACCORDINGLY, IT IS ON THIS 7th DAY OF December, 2011,
ORDERED that:

1. Respondent is hereby reprimanded, pursuant to N.J.S.A. 45:1-21(g), in that the State of Pennsylvania has suspended and limited respondent's license to practice dentistry in Pennsylvania for reasons consistent with the provisions of N.J.S.A. 45:1-21.

2. Respondent is hereby assessed a civil penalty in the

amount of two thousand five hundred dollars (\$2,500) for engaging in misrepresentation by failing to disclose the status of his Pennsylvania license on his license renewal application in violation of N.J.S.A. 45:1-21(b). Payment of the civil penalty shall be submitted simultaneous with the entry of this order by certified check or money order made payable to the State of New Jersey and shall be sent to Jonathan Eisenmenger, Executive Director, Board of Dentistry, P.O. Box 45005 124 Halsey Street, Sixth Floor, Newark New Jersey 07101.

3. Within three months of the entry date of this Order, respondent shall document to the Board successful completion of a Board approved course in proper prescribing of controlled dangerous substances. Respondent shall complete an Application for Course Approval and submit it to the Board for approval.

4. Failure to timely remit any payment required by this Order will result in the filing of a certificate of debt.

NEW JERSEY STATE BOARD OF DENTISTRY

By: Herbert B. Dolinsky *HB*
Herbert B. Dolinsky, D.D.S.
Board President